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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,144	09/12/2003	Philip E. Neff	1745-000001	8735
27572	7590	11/02/2004	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303				BINDA, GREGORY JOHN
ART UNIT		PAPER NUMBER		
				3679

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/662,144	NEFF, PHILIP E.	
Examiner	Art Unit		
Greg Binda	3679		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 29 September 2004.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-27 is/are pending in the application.  
4a) Of the above claim(s) 7 and 11-27 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-6 and 8-10 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 12 September 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

*Election/Restrictions*

1. Applicant's election with traverse of Group I, Species I, the repair device shown in Figs. 1 & 2 in the reply filed on September 29, 2004 is acknowledged. The traversal is on the ground(s) that the claimed subject matter of Groups I & II is sufficiently related such that examination of all claims would not present an undue burden. This is not found persuasive because the claimed subject matter of the elected invention is distinct from those unelected and examination of all claims would present an undue burden on the examiner as noted in the restriction requirement mailed September 23, 2004.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 7 & 11-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention/species, there being no allowable generic or linking claim.

Claims 11 & 12 are withdrawn because they read exclusively on the unelected species shown in Figs. 10 & 11. See paragraph 0036.

*Drawings*

3. The drawings are objected to because in Fig. 2 elastomeric seal 54 (see para 0028) is drawn without the appropriate cross hatching pattern. See MPEP § 608.02 for the appropriate cross hatching pattern.

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Specification*

5. The specification is objected to as failing to comply with 37 CFR 1.71 and 1.75(d)(1) because the detailed description fails to provide proper antecedent basis for the following claimed subject matter:

- a. Claims 2, 6, 8 & 9: all limitations therein
- b. Claims 3 & 10: "bifurcated"
- c. Claim 4: "an arcuate inner wall engaging an outer surface of the shell"

d. Claim 5: "an arcuate outer wall extending substantially parallel to said arcuate inner wall"

*Claim Rejections - 35 USC § 112*

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-6 & 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The scope of the claims is ambiguous because it is not clear if the claimed invention includes, or excludes the shell and hub of a flexible drive coupling. In claim 1, lines 1 & 2 the shell and hub of the flexible drive coupling are recited as separate and distinct from (i.e. outside the scope of) the claimed invention, a "repair device". However, in lines 3 & 4, the shell and hub are positively recited as being "fixed" to elements of the claimed invention and so, since the shell and hub are positively recited as being connected to the claimed invention, they are therefore also recited as parts of (i.e. within the scope of) the claimed invention.

*Claim Rejections - 35 USC § 102*

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-5 & 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Churchill et al, US 5,033,433 (Churchill). Fig. 2 shows a repair device for a flexible drive coupling having a shell and a hub, the repair device comprising: a first member 20 fixed to the shell 22, the first member including a slot in a bifurcated end 36; and a second member 44 fixed to the hub 16, a portion of the second member extending from the hub, the portion being slidably positioned within the slot, the first member being drivingly engagable with the second member to transfer torque between the shell and the hub while allowing the hub and shell to be movable relative to each other. Fig. 2 shows the first member 20 includes inner and outer arcuate walls 34 engaging an outer surface of the shell 22.

10. Claims 1-3 & 8-10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by any one of Scott, US 1,277,491 and Cadnum, US 1,833,932.

*Claim Rejections - 35 USC § 103*

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Churchill. Churchill does not expressly disclose that the arcuate inner and outer walls 34 of the first member 20 have arc lengths that are substantially less than forty-five degrees. However, applicant has not disclosed that having arc lengths at this or any other particular value solves any stated problem or is for any particular purpose. Moreover, it appears that the first member would perform equally well with arcuate wall arc lengths of any value. Accordingly, the use of forty-five degree or less arc length is deemed to be a design consideration which fails to patentably distinguish over the prior art to Churchill.

*Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harrington, Wildhaber, Wright, Jonassen and Kono each show a flexible coupling.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (703) 305-2869. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3679

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Greg Binda  
Primary Examiner  
Art Unit 3679